

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KARA SAMPSON,

Plaintiff,

v.

W.C.S.O., *et al.*,

Defendants.

Case No. 3:22-cv-00418-MMD-CSD

ORDER

Pro se Plaintiff Kara Sampson brings this civil rights action under 42 U.S.C. § 1983 to redress constitutional violations she claims to have suffered while incarcerated at Washoe County Detention Center. (ECF No. 1-1.) On November 21, 2022, this Court ordered Sampson to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before January 23, 2023. (ECF No. 3.) The Court warned Sampson that the action could be dismissed if she failed to file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action by that deadline. (*Id.* at 3-4.)

The Court's order came back as undeliverable with a notation that Plaintiff was "Not Here." (ECF No. 4.) Under Local Rule IA 3-1, a "pro se party must immediately file with the court written notification of any change of mailing address, email address, telephone number, or facsimile number. The notification must include proof of service on each opposing party or the party's attorney. Failure to comply with this rule may result in the dismissal of the action, entry of default judgment, or other sanctions as deemed appropriate by the court." LR IA 3-1. The Court sent Sampson an advisory letter which explained, among other things, that she must immediately file any change of address with the Court. (ECF No. 2.) The January 23, 2023 deadline expired, and Sampson has not

1 filed a fully complete application to proceed *in forma pauperis*, pay the full \$402 filing fee,
2 or file an updated address.

3 **I. DISCUSSION**

4 District courts have the inherent power to control their dockets and “[i]n the
5 exercise of that power, they may impose sanctions including, where appropriate . . .
6 dismissal” of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir.
7 1986). A court may dismiss an action based on a party’s failure to obey a court order or
8 comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
9 (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep
10 court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)
11 (dismissal for failure to comply with court order). In determining whether to dismiss an
12 action on one of these grounds, the Court must consider: (1) the public’s interest in
13 expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk
14 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
15 merits; and (5) the availability of less drastic alternatives. See *In re Phenylpropanolamine*
16 *Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal*
17 *Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

18 The first two factors, the public’s interest in expeditiously resolving this litigation
19 and the Court’s interest in managing its docket, weigh in favor of dismissal of Sampson’s
20 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
21 because a presumption of injury arises from the occurrence of unreasonable delay in filing
22 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542
23 F.2d 522, 524 (9th Cir. 1976). The fourth factor, the public policy favoring disposition of
24 cases on their merits, is greatly outweighed by the factors favoring dismissal.

25 The fifth factor requires the Court to consider whether less drastic alternatives can
26 be used to correct the party’s failure that brought about the Court’s need to consider
27 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
28 that considering less drastic alternatives *before* the party has disobeyed a court order

1 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
2 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
3 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court’s
4 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
5 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
6 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
7 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
8 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
9 unless Sampson either files a fully complete application to proceed *in forma pauperis* or
10 pays the \$402 filing fee for a civil action, the only alternative is to enter a second order
11 setting another deadline. But the reality of repeating an order is that it often only delays
12 the inevitable and squanders the Court’s finite resources. The circumstances here do not
13 indicate that this case will be an exception. The Court’s order came back as undeliverable
14 to the address on file with the Court, and Sampson has not filed an updated address. As
15 such, it does not appear that another order would even reach Sampson. Setting another
16 deadline is not a meaningful alternative given these circumstances. So the fifth factor
17 favors dismissal.

18 **II. CONCLUSION**

19 Having thoroughly considered these dismissal factors, the Court finds that they
20 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
21 prejudice based on Sampson’s failure to file a fully complete application to proceed *in*
22 *forma pauperis* or pay the full \$402 filing fee in compliance with this Court’s November
23 21, 2022 order, and Sampson’s failure to notify the Court of a change to her mailing
24 address. The Clerk of Court is directed to enter judgment accordingly and close this case.

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1 No other documents may be filed in this now-closed case. If Sampson wishes to
2 pursue her claims, she must file a complaint in a new case.

3 DATED THIS 8th Day of February 2023.

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6 MIRANDA M. DU
7 CHIEF UNITED STATES DISTRICT JUDGE
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